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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,145	09/22/2005	Douglas John Cumberlege	5991-01600	3880
35690	7590	07/28/2006		
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. 700 LAVACA, SUITE 800 AUSTIN, TX 78701				
			EXAMINER DEUBLE, MARK A	
			ART UNIT 3651	PAPER NUMBER

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/551,145	CUMBERLEGE, DOUGLAS JOHN	
	Examiner	Art Unit	
	Mark A. Deuble	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/22/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stinson (U.S. Patent No. 2,904,166).

Stinson shows a drag operated training idler roller assembly comprising an idler roller unit 17 with an idler roller 39 mounted for free rotation on an circular cross-sectioned axle 38 by way of bearings (not shown) in the roller ends. The unit includes a suspension formation associated with each end of the idler unit, and a downwardly extending support arrangement coupled to the conveyor structure 14/47/51 at a position above the idler roller and the supported

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conveyor belt such that the idler roller extends transversely relative to and supports a region of a conveyor belt. The support arrangement includes a separate pendulous support arm 34 at each end of the roller unit. The support arms are plates pivotally supported towards their upper ends so that each arm is movable in a generally upright plane extending in the general direction of travel of the conveyor. This arrangement enables the support arm and suspension formation to slew in generally vertical planes extending in the general direction of travel of the conveyor belt in order to cause the idler roller unit to slew in a plane generally parallel to that of the conveyor belt to move one or other end in the general direction of travel of the conveyor belt to guide the conveyor belt to the central desired position in response to increased drag between the conveyor belt and the idler roller unit. Thus Stinson shows all the structure required by claims 1-3 and 10.

The suspension formations include accommodating apertures 36 in the lower end regions of the support arms which in order to support the exposed ends of the axle of the idler roller.

The axle has a pair of opposite parallel and generally vertical flat surfaces 41 formed in an outer right circular cylindrical surface of the axle at each end thereof which cooperate with edges 37 of the accommodating apertures to hold the associated end of the idler roller unit axially captive relative to the arm. A degree of play is provided between the axle and the cooperating edges of the accommodating aperture to enable the necessary articulated movement of the axle relative to the pendulous arm to take place. Thus Stinson shows all the structure required by claims 4-5.

5. Claims 1, 68-, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by French document 2 585 679.

The French document shows a drag operated training idler roller assembly comprising an idler roller unit with an idler roller 1 mounted for free rotation on an 38 axle (not shown) a

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suspension formation associated with each end of the idler unit, and a downwardly extending support arrangement 6 coupled to the conveyor structure at a position above the idler roller and the supported conveyor belt such that the idler roller extends transversely relative to and supports a region of a conveyor belt. The downwardly extending support arrangement is in the form of a downwardly extending yoke having a central upper support pivot arrangement 7 about which the yoke can slew about a generally vertical axis and a pair of laterally spaced downwardly extending support arms 3 to which the suspension formations of the idler roller unit are integrally attached. This yoke may be said to form either an inverted squat Y-shape supported centrally by a thrust bearing 7 adapted to support the weight of the yoke, roller, and conveyor belt or an inverted U-shape supported centrally by a web 4 of the U-shape. This arrangement enables the support arm and suspension formation to slew in generally vertical planes extending in the general direction of travel of the conveyor belt in order to cause the idler roller unit to slew in a plane generally parallel to that of the conveyor belt to move one or other end in the general direction of travel of the conveyor belt to guide the conveyor belt to the central desired position in response to increased drag between the conveyor belt and the idler roller unit. Thus the French document shows all the structure required by claims 1 and 6-8.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stinson in view of Cumbelege or Robins (U.S. Patent Nos. 5,911,304 and 2,330,923).

Stinson shows generally all the structure required by the claims except for the tapering external surface of the idler roller that tapers toward each end over the entire length of the roller from a central cylindrical band. However, both Robins and Cumberlege teach that rollers that taper toward each end over their entire length from a central cylindrical band provide a more powerful belt training action than cylindrical rollers and reduce strain on the edge of the belt and the guide rollers at their point of contact. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the idler roller 39 of Stinson with such a tapered roller.

8. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over French document number 2 585 679 in view of Cumbelege or Robins (U.S. Patent Nos. 5,911,304 and 2,330,923).

The French document shows generally all the structure required by the claims except for the tapering external surface of the idler roller that tapers toward each end over the entire length of the roller from a central cylindrical band. However, both Robins and Cumberlege teach that rollers that taper toward each end over their entire length from a central cylindrical band provide a more powerful belt training action than cylindrical rollers and reduce strain on the edge of the belt and the guide rollers at their point of contact. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the idler roller 39 of Stinson with such a tapered roller.

Allowable Subject Matter

9. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art not discussed above show bent training apparatuses similar to that of the present invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

md

MARK A. DEUBLE
PATENT EXAMINER

